



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

May 5, 1997

Frank Shrier, Lead Scientist
PacifiCorp
920 SW 6th Avenue
Portland, OR 97204

Re: Merwin Project, FERC No. 935, license Article 51

Dear Frank,

As per the meeting we had, and phone conversations over the past several months, the Washington Department of Fish and Wildlife (**Department**) proposes that PacifiCorp revise its obligations associated with Merwin License Article 51. This revised program is proposed to improve recreational fisheries by enhancing fish survival upon release into the appropriate reservoir as follows:

Article 51, currently calls for an annual release of 150,000 juveniles coho at 50 fpp. And 150,000 at 20 fpp. As we have discussed the success, the intended fishery at the two reservoirs (Swift and Merwin) has been marginal. The Department proposes that PacifiCorp alternatively provide for the release of 100,000 kokanee at 7 to 8 fpp. Kokanee eggs would be collected on-site in Speelyai Creek and reared at the Speelyai Hatchery. Should insufficient kokanee eggs be available in any given year, PacifiCorp would be responsible to obtain rainbow trout eggs and to raise and release the same number of trout at 7 to 8 fpp. Into Merwin Reservoir wherewith the program would result in the same poundage of fish production called for in Article 51.

License Article 51, also calls for 1,000,000 rainbow trout fry to be stocked annually into Swift Reservoir at 50 fpp. The Department, also requests PacifiCorp to modify that program requirement to 800,000 rainbow trout jumbo fry at 25 to 30 fpp. This modification would also result in the same poundage of fish production as called for in the license.

Please give me a call if you have any questions on this matter.

Sincerely yours,


Manuel Parias
Lower Columbia Operations Manager



PACIFIC POWER 920 S.W. Sixth Avenue • Portland, Oregon 97204 • (503) 243-1122

July 6, 1988

Mr. James G. Fenton
Washington Department of Wildlife
600 North Capitol Way, GJ-11
Olympia, WA 98504-0091

JUL 7 1988

Dear Mr. Fenton:

Enclosed please find one copy of the agreement relating to the design and construction of a new hatchery near Merwin Dam which contains all required signatures. I will also send a fully executed copy to Brian Edie of Department of Fisheries for his agency's files.

It has been a long process to get to this point, but I believe the agreement provides a good foundation of understanding for the development of these facilities. It also sets the stage for continued cooperative efforts in addressing other natural resource related issues. Thank you for your participation in the process.

Sincerely,

Edward Weiss
Manager Environmental Sciences

Attachment

EW.070588a.1tr/sd

CC: J. Tinny - 1300 PSB
S. De Sousa - 900 PFFC

AGREEMENT

between

Washington Department of Wildlife
Washington Department of Fisheries
Pacific Power & Light Company

This is an Agreement relative to the development and operation of a new Game Fish Mitigation Hatchery on the Lewis River. This Agreement is made by and between the Washington State Department of Fisheries, hereinafter called WDF, the Washington State Department of Wildlife (formerly known as Washington Department of Game), hereinafter called WDW, and Pacific Power & Light Company, hereinafter called PPL and/or their assigns.

WDF is responsible under the laws of the State of Washington (Title 75 RCW) to preserve, protect, perpetuate and manage the food fish and shellfish in state waters and offshore waters. WDW is responsible under the laws of the State of Washington (Title 77 RCW) to preserve, protect, and perpetuate wildlife, including those fish species not classified as food fish. PPL is an investor-owned electric utility which serves customers in six Western states and owns and operates the Merwin Hydroelectric Project.

The Lewis River enters the Columbia River near Woodland, Washington. Unless otherwise specified, for the purposes of this Agreement, Lewis River includes that portion of the Lewis River commonly known as the North Fork, but excludes the East Fork.

I Introduction

Merwin Dam is located on the Lewis River, near Ariel, Washington. Article 50 of the license for the Merwin Project (No. 935) as issued by the Federal Energy Regulatory Commission requires the licensee (PPL), in part, to fund the construction, operation and maintenance of a hatchery facility. The facility will mitigate for losses of resident and anadromous trout resulting from construction and operation of the Merwin Project.

The purpose of this Agreement is to identify the conditions under which WDW, WDF and PPL agree to the construction of the new hatchery at the site near Merwin Dam which was identified in the feasibility analysis conducted by consultants to PPL (Fish-Pro, Inc., 1985). Each of the parties agrees to make its best effort to achieve the objective of these conditions, which is to insure that the operation of the new facility:

- (a) does not impair opportunities to maintain and enhance the fall chinook salmon residing in the Lewis River;
- (b) does not create unacceptable risk of disease problems for the natural fall chinook or the salmon reared at the WDF Lewis River Salmon Hatchery; and
- (c) provides for a successful cutthroat, rainbow and steelhead trout program in the Lewis River.

II Management

The management conditions listed below are deemed necessary to protect the opportunities to maintain and enhance the natural population of fall chinook residing downstream from Merwin Dam in the Lewis River.

- (1) In order to reduce human interference with fall chinook spawning in the river, the parties agree to provide

actions that close the Lewis River to fishing between Merwin Dam and the mouth of Colvin Creek October 1 through December 15 of each year.

(2) Stocking locations for winter and summer steelhead and sea-run cutthroat will be developed to minimize predation and competition with juvenile fall chinook, reduce residualism, and to select the lowest site(s) that shall allow for broodstock collection and a reasonable sport harvest.

The parties agree that anadromous trout will be stocked in the Lewis River as provided in the following subsections:

- (a) Except as provided in subsection (b) of this section, all steelhead smolts stocked in the Lewis River will be stocked at sites at or below the WDF Lewis River Salmon Hatchery. The results of the evaluation referred to in Part IV, Section 1 will be used to design stocking strategies for steelhead and cutthroat trout.
- (b) Steelhead smolts may be stocked near Merwin Dam, if needed, to provide for collection of broodstock at Merwin Dam and/or to provide a summer steelhead fishery between the WDF hatchery and the dam. The number of steelhead to be stocked near the dam for either of these purposes will be determined from the monitoring program discussed in Part IV of this Agreement. Initially, 25,000 summer and 6,250 winter steelhead smolts may be stocked near the dam. These numbers may be adjusted as agreed to by the parties once actual return and harvest rates are known.

- (c) Steelhead and sea-run cutthroat trout stocked downstream of Merwin Dam will be eight to the pound or larger when stocked. Fish smaller than eight to the pound will not be stocked in the Lewis River below Merwin Dam, or in the East Fork of the Lewis River.
- (d) The hatchery will be designed for the volitional release of steelhead. "Volitional release" means the smolts will be allowed to migrate out of their rearing ponds and into a collection facility for transportation to the stocking site. Fish that are not volitionally released will not be stocked in the Lewis River below Merwin Dam, or in the East Fork of the Lewis River.
- (e) Steelhead and cutthroat smolts will be stocked into the Lewis River downstream of Merwin Dam only from March 16 through May 31 of each year.
- (f) All sea-run cutthroat trout will be stocked at sites at or below river mile 6.7 (County Bridge at Woodland) of the Lewis River.

III Disease

The disease control measures listed below are deemed necessary to reduce fish disease outbreaks at the WDW hatchery and to minimize the discharge of pathogens into the Lewis River from the WDW hatchery.

- (1) A year-round supply of disinfected water will be available to the hatchery by disinfecting incoming reservoir water, and/or by using a ground water source. The hatchery

design will provide disinfected water for all fish from June through December, and for eggs and fry from November through May.

(2) A system for treating all effluent water from the hatchery will be installed for use during an occurrence of an emergency or certifiable disease as defined by WDW/WDF disease policy dated 7/1/82. This system will be either a chlorination or ozonation system designed to provide sufficient residual chlorine or ozone over a sufficient time period to successfully kill bacterial and viral fish pathogens. If an alternative system is identified which provides an equivalent disinfection treatment, such system will be considered for use by the parties.

(3) The water supply to the broodstock holding pond(s) and to the egg incubation system will each be isolated, and the effluent water from these facilities will be treated continuously as per the standard in Part III, Section (2).

(4) WDW and WDF will consult with each other and PP&L if there is an occurrence of an emergency or certifiable disease within the Lewis River watershed. WDW will not take any action that creates an unacceptable risk of disease problems for the natural fall chinook or the salmon reared at the WDF Lewis River Salmon Hatchery.

IV Monitoring

The agreements contained in Parts II and III of this Agreement are designed to insure that the construction and operation of the new WDW mitigation hatchery does not impair the opportunities to maintain and enhance the salmon resources in the North Fork of the Lewis River. A monitoring program is necessary to verify that these opportunities are not adversely

affected by the WDW hatchery. A monitoring program is also necessary to develop the stocking strategies that are consistent with Part II of this Agreement.

The elements of the monitoring program are outlined in the following sections:

(1) Marked groups of steelhead will be released at the following sites on the Lewis River: (a) Merwin Dam, (b) WDF Lewis River Salmon Hatchery, (c) Island boat ramp, and (d) Woodland boat ramp. A group may also be imprinted in and released from one of the rearing ponds at the WDF Lewis River Salmon Hatchery. A creel census will be conducted when the fish return. The census will evaluate their contribution to the harvest and their availability as broodstock at Merwin Dam or at Lewis River Salmon Hatchery. This program of marking and tagging juveniles will continue for at least two brood years.

(2) The following evaluations of the adult and juvenile fall chinook populations by WDF and PPL will continue:

- (a) Spawning ground surveys.
- (b) Tagging of juvenile fall chinook during June.
- (c) Limited investigation of predation on juvenile fall chinook by steelhead, sea-run cutthroat trout, spring chinook and coho salmon.
- (d) An annual juvenile fall chinook population estimate.

(3) A special evaluation will be initiated if:

- (a) the estimated juvenile fall chinook population

for three consecutive years falls below an average based on population estimates made from 1983 to the date of the first trout release.

(b) two consecutive juvenile fall chinook population estimates numerically fall below the lowest occurring in the database.

(c) the annual review of available data indicates an urgent need for further evaluation as determined by the parties.

All parties will participate in the special evaluation to be funded by PP&L and completed within two years. This evaluation will include an analysis of flows, hatchery operations, escapement and other factors to determine the cause for the decline of the fall chinook population.

The results of the Part IV, Section (3) evaluation will be applied as appropriate to eliminate the cause for the decline of the fall chinook.

V Miscellaneous

(1) This Agreement shall become effective upon date of last signature and shall remain in effect until December 11, 2009 unless modified earlier by a written mutual agreement signed by all parties.

(2) This Agreement acknowledges the cooperative agreement between WDW and WDF signed in February 1985 regarding the establishment of a boat ramp on the Lewis River at Merwin Dam. If necessary to achieve the objectives of this Agreement, the parties will approach Clark & Cowlitz Counties and seek a

closure to all motorized boating between the Lewis River Salmon hatchery and Merwin Dam.

(3) Dispute Resolution: For purposes of dispute resolution under this Agreement, the parties are the State of Washington and PP&L. In the event of a dispute, the two parties will attempt to resolve the dispute by discussing the issues. If these discussions are not successful, either party may elect to submit the matter to a board of arbitration for a final and binding decision. If a party selects arbitration, it shall notify the other party in writing. Within 15 days after receipt of the notice, the parties shall reach consensus on two arbitrators. The two arbitrators shall select a third arbitrator. If the two arbitrators do not agree to a third within ten days, either may request the Director of the School of Fisheries to select the third arbitrator. If the two parties cannot reach consensus of the first two arbitrators within 15 days, the Dean will designate the arbitrator. The parties will share the cost, if any, for dispute resolution.

(4) The Agreement should be construed and interpreted under the laws of the State of Washington. In the event of any breach of the Agreement, venue for any action shall lie in Thurston County, Washington.

(5) The existing WDF Lewis River Hatchery will be modified to provide for sorting, holding and transporting of adult steelhead and cutthroat trout to the WDW hatchery. All modifications to be done at the expense of PP&L and reviewed and approved by all parties.

(6) Representatives of all parties will meet at least once annually to review and/or revise the contents of this Agreement and to review and coordinate ongoing studies, update development of facilities, discuss watershed management and other issues.

Any party may call a meeting when deemed necessary.

(7) Upon completion of the conceptual design process, a meeting will be held by the parties to review the design concepts pertinent to the objectives of this Agreement.

VI References

Lewis River Fishery Compensation Feasibility Analysis, FishPro, Inc., 1985.

Task Force Work Group Minutes: 1/14/87, 2/4/87, 2/26/87, 4/2/87, 4/23/87, 5/7/87, 5/28/87, 6/25/87, 8/20/87, 9/17/87.

Washington State Department of Fisheries and Department of Agriculture Policy relating to WAC 220-77, The import or transfer of "private sector cultured aquatic products" (RCW 15.85.020).

Washington State Department of Fisheries and Department of Agriculture Policies relating to these listed diseases - viral hemorrhagic septicemia (VHS), Whirling Disease, Infectious Hematopoietic Necrosis (IHN), and Infectious Pancreatic Necrosis (IPN), (WAC 220-77).

Merwin Project No. 935, Federal Energy Regulatory Commission.

APPROVED:

PacifiCorp, dba
Pacific Power & Light Company

By

Yell S. Weisberg
Authorized Signature

VICE PRESIDENT
Title

6-30-88
Date

Washington Department of Fisheries

By

Carl R. Blum
Authorized Signature

Director
Title

5-18-88
Date

Washington Department of Wildlife

By

James Neal
Authorized Signature

Interim Director
Title

5-3-88
Date

Washington State Attorney General's Office

Approved as to form

By

William C. Fryer
Authorized Signature

ASSISTANT ATTORNEY GENERAL
Title

Date

April 25, 1988